

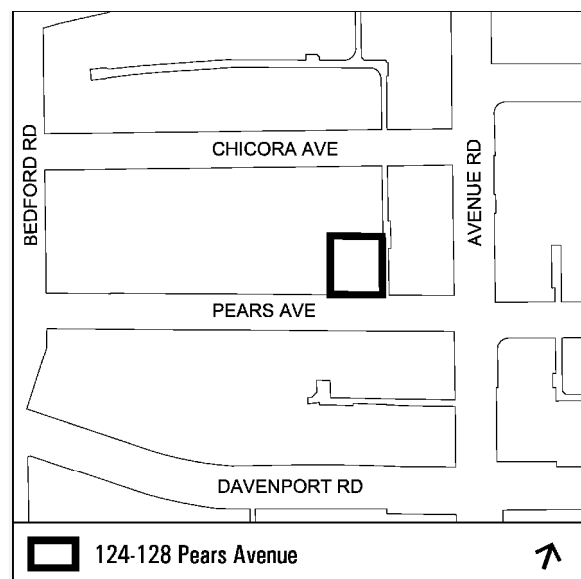
124 and 128 Pears Ave - Zoning Amendment Application – Final Report

Date:	December 13, 2011
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	11 169962 STE 20 OZ

SUMMARY

This application proposes to amend Zoning By-law No. 438-86 to permit the construction of a 11-storey, (ten storey plus residential penthouse), mixed-use building, at 124 and 128 Pears Avenue. This site is currently used as a parking lot. The proposed building consists of 45 residential dwelling units, which includes two townhouse units at grade. There is a commercial space on the second floor which includes an entry at grade abutting the residential lobby. The proposal includes three levels of underground parking containing 54 parking spaces.

The City Planning Division is recommending approval of the proposed development, as it is substantially in keeping with the development criteria for *Mixed Use Areas*, Public Realm, Built Form and all other relevant Official Plan policies and urban design guidelines.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 438-86, for the lands at 124 and 128 Pears Avenue substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 7 to the report dated December 13, 2011 from the Director, Community Planning, Toronto and East York.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 124 and 128 Pears Avenue to enter into an Agreement pursuant to Section 37 of the Planning Act:
 - a. The community benefits and other items recommended to be secured in the Section 37 Agreement are:
 - i. A payment of \$350,000 which will be payable prior to the issuance of the first above-grade building permit. Such payment shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the Section 37 Agreement to the date of Payment.

Such payment will be deposited to the Planning Act Reserve Fund and may be used for the capital construction of, or capital improvements to one or more of the following: a minimum of 10% will be for public housing improvements in Ward 20 and the remainder will be for community improvements in Ward 20 in the vicinity of the site, which may include parks and public realm improvements.

The funds will be allocated amongst the listed community benefits as determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.
 - ii. That the owner shall, prior to the issuance of the first above grade permit, provide a bronze plaque or submit plans for interpretive panels or other interpretive materials to communicate the history of the property, including the importance of the Club Blue Note, jazz club to be located in the lobby of the residential condominium or an appropriate exterior location, with the proposed location to be illustrated on an Interpretation Plan. The research, design and

location of the interpretive materials shall be to the satisfaction of the Manager of Heritage Preservation Services.

4. City Council require the owner of the lands at 124 and 128 Pears Avenue, prior to introducing the necessary Bills to Council for enactment, to prepare and have registered a Reference Plan, showing a 1.48 metre wide strip of land along the east limit of the above-described lands, which is for the purpose of conveyance to the City for widening of a public lane, in accordance with the requirements of the City.
5. City Council require the owner of the lands at 124 and 128 Pears Avenue, prior to introducing the necessary Bills to Council for enactment, to prepare and have registered a Strata Reference Plan to allow for a strata conveyance to the City of an area to a minimum depth of 1.0 metres from the finished grade, based upon the lane widening referred to in item 4 above and the owner further be required to complete such conveyance at the time and in accordance with the requirements of the City.
6. City Council require that the owner of the lands at 124 and 128 Pears Avenue, shall construct and pay for, to provide any necessary improvements to the municipal infrastructure in connection with the Functional Servicing Report and changes to the lane, as accepted by Executive Director of Technical Services, if it is determined that upgrades are required to support this development.
7. City Council require the owner of the lands at 124 and 128 Pears Avenue, prior to introducing the necessary Bills to Council for enactment, to submit a "desktop" wind study to the satisfaction of the Chief Planner and Executive Director of City Planning.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

On April 8, 2011, Sunnyhill Gardens Inc. applied for a Zoning By-law Amendment and Site Plan Approval for 124 and 128 Pears Avenue to replace a vacant (former Downtown Fine Cars) parking lot site with a 12-storey mixed use building, with a mechanical penthouse, partially wrapped with two residential units. The proposal included three levels of below-grade parking garage. The proposed density was 6.19 times the area of the lot. The proposal provided for 45 dwelling units.

The application was revised and submitted on November 22, 2011, for an 11-storey (ten storey plus residential penthouse), mixed-use building which is the subject of this report. There were a number of revisions that resulted from community consultation, comments from City Divisions, and discussions with City Planning staff.

In summary, revisions included: relocation of the mechanical penthouse from the roof to Parking Level 1; reduction of the building height from 40.4 to 36.4 metres; reduction of the overall residential gross floor area; stopping the two elevator overruns at the 10th floor; spacing the balconies on the north elevation 2 metres apart as opposed to one continuous terrace type balcony system for the first five floors; reducing the balcony depths and treating the glass for privacy screening; changing the rear shrub plantings to a screening of 29 white pine trees with planting heights of 3.5 metres; planting four large calliper Bradford Pear street trees on Pears Avenue; relocating the bicycle parking from the lower levels of the parking garage to Parking Level 1; and relocating the visitor bicycle parking spaces, to a location at grade.

The revised proposal has a density of 5.95 times the area of the lot.

See Attachment No.6 for project data.

Site and Surrounding Area

The site is located on the north side of Pears Avenue, three properties west of Avenue Road. The site contains a vacant parking lot, which is two storeys below the grade of the Chicora Avenue residential properties to the north. The site was previously used as the parking lot for the former Downtown Fine Cars dealership. Prior to that in the 1980's, the previous building located on the site housed Club Blue Note, a popular local jazz club.

The following uses about the site:

North: 11 to 19 Chicora Avenue, two pairs of semi-detached two storey dwellings, comprising the edge of a low density residential neighbourhood to the north and west.

South: currently, the demolished site of the Downtown Fine Cars dealership building. It has an Ontario Municipal Board approval and subsequent Committee of Adjustment approval to permit a 20-storey mixed-use building.

East: a public laneway, 122 Pears Avenue, a 2.5-storey architectural office, the rear of 174 to 188 Avenue Road, a row of mixed-use semi detached buildings with commercial frontages containing (law offices, laundry cleaners, hair salon. clothing store). Most of the buildings have residential units on the second floor or at grade towards the rear of the building.

West: 138 Pears Avenue, an 8.5-storey (22.5m) residential apartment building, with rear balconies, 142 Pears Avenue, a 5.5-storey stacked residential condominium building, 160 Pears Avenue, Designers Walk, a two storey office/design studio building.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated a *Mixed Use Area* in the Official Plan's Land Use (Map 18). Within the City's Urban Structure (Map 2), the site is within the *Downtown and Central Waterfront Area*.

The application was evaluated using the built form policies of Section 3.1.2 of the Plan which address how the development improves the public realm, is organized to provide joint access and underground parking, and is massed to fit harmoniously into the planned context of the neighbourhood and the City.

The application was considered with respect to defining the edges of streets and open spaces. The building's location and reduced height will better ensure adequate access to sky view for the current and future use of the area. The application was evaluated under Section 4.5 Mixed Use Areas, Development Criteria found in Policy 2.

Bloor-Yorkville/North Midtown Urban Design Guidelines

The subject site is located in the Avenue Road Corridor as identified by (Figure 5) in the Bloor-Yorkville/North Midtown Urban Design Guidelines. The guidelines recommend that due to the proximity to low-scale residential neighbourhoods on either side of Avenue Road above Elgin Avenue, special consideration should be given to the impact of commercial uses, the form of development and parking and servicing arrangements. Specifically, in Mixed Use Areas development will:

1. Locate and mass new buildings to provide a transition between areas of different development intensity and scale, particularly providing setbacks from and stepping down of heights towards lower scale Neighbourhoods;
2. Locate and mass new buildings to minimize shadow impacts on adjacent Neighbourhoods during the spring and fall equinoxes;

3. Locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and
4. Provide good site access and circulation and an adequate supply of parking for residents and visitors.

Section 3.7 Street Character Types of the design guidelines (Figure 12) identifies Pears Avenue as a Neighbourhood Street. Neighbourhood Streets support stable residential neighbourhoods and developments should reinforce the residential scale of the street.

Section 4.3.2 Shadows and Pedestrian Comfort of the design guidelines (Figure 25) identifies Pears Avenue and Chicora Avenue as Shadow Sensitive Areas. The design guidelines recommend that applicants provide shadow information for appropriate months from 10 am until 4 pm, while additional times may be required when warranted. Also, buildings that are 20 metres (or over 6 storeys) in height should provide a pedestrian level wind study of the proposed development early in the review process.

Zoning

The site is zoned under By-law 438-86 (refer to Attachment 5) as CR T2.5 C1.5 R2.0. The zoning permits a mix of commercial and residential uses to a total of 2.5 times the area of the lot. The density limit is 1.5 times the area of the lot for commercial uses. The density limit is 2.0 times the area of the lot for residential uses. The maximum permitted height is 14.0 metres. The redevelopment of this site is also subject to various development standards established by the Zoning By-law respecting setbacks, parking, loading and amenity space.

Site Plan Control

The proposal is subject to site plan control. A site plan application was submitted and has been processed concurrently with the applicants' Zoning By-law Amendment application.

Reasons for Application

An amendment to the Zoning By-law is necessary because the proposed development exceeds permitted maximum density and height limits.

The permitted density is 2.5 times the area of the lot. It is proposed to be exceeded by 3.45 times the area of the lot, for a proposed total density of 5.95 times the area of the lot.

The revised proposal is for an 11-storey (ten storey plus residential penthouse), with a maximum height of 36.4 metres to the top of the residential penthouse, with no mechanical or elevator overruns. The permitted height is 14.0 metres. Other areas of non-compliance have been identified through the review process.

Community Consultation

A community meeting was held at the Church of the Redeemer on September 20, 2011. Approximately forty members of the public attended the meeting. At the meeting, the project planner and the architect presented the project to the public. Nearby residents had questions regarding: the building height; density issues; shadow impact; balconies; over look; request for 3D shadow studies and December 21 shadow studies; sky view concerns; concern for type of retail use; restrictions on laneway traffic; and in general, development pressure in the surrounding area.

The Ward Councillor set up a small working group of local volunteers and City staff who met with the owner's consultants on October 13, 2011 to discuss further changes and provide additional shadow information. The meeting's focus was primarily on the 3D shadow presentation, based on no further changes to the proposed building. The working group expressed disappointment to see no further change and were concerned about building height, shadowing, and loss of privacy and reduction of sky view. City staff received a number of e-mails and comments sheets after both community and working group meetings with respect to the above mentioned issues.

On November 22, 2011 the applicant submitted revised plans that responded to many of the concerns raised by the small working group and the community. In summary, the changes included: building height reduced by a floor; reduction in residential density; the mechanical penthouse was buried in the building; continuous balconies were separated by 2 metres gaps; balconies were reduced in depth; balconies were screened for privacy and wind mitigation; rear shrubs are proposed to be replaced with large growing coniferous tree plantings in the rear yard; and updated shadow studies that reflect shorter shadow duration on the rear walls and yards of the abutting residential properties to the north, which are located on Chicora Avenue and agreement to provide any required signage for traffic restrictions on the public lane, that runs from Pears Avenue to Chicora Avenue.

City Planning staff received correspondence on December 6, 2011 from a local resident whose property backs onto the subject site. The resident has reviewed the applicants' revised plans and still has concerns as to whether the proposal meets the intent of the Bloor-Yorkville/North Midtown Urban Design Guidelines. Those concerns are addressed in the Comments section of this report.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal supports the 2005 Provincial Policy Statement (PPS) direction of intensification to achieve growth and urban vitality, while making use of existing

infrastructure. The application complies with the policies of the PPS that supports intensification and requires new development to be directed to appropriate locations for growth.

The project site is located within a built up area, the proposed mixed-use building is consistent with the policies of the Growth Plan which direct growth to areas where the capacity exists to best accommodate the expected population and employment growth, promote transit-supportive densities, and encourage a healthy mix of residential and employment land uses.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

The proposed mixed commercial-residential development conforms to the land uses that are permitted by the Official Plan and Zoning By-law. Both documents permit a broad range of retail, service, office-commercial and residential uses on this site.

The proposed development is located within the *Downtown and Central Waterfront* and is designated *Mixed Use Areas* (Map 18: Land Use Plan). It has a built form that is compact, and compatible with the adjacent neighbourhoods in terms of design treatment. The proposed development conforms to the Official Plan policies by promoting intensification and a diversity of uses, that is an appropriate form of infill development in a *Mixed Use Area*, which is adjacent to a low density neighbourhood as further discussed below.

Density, Height, Massing

This type of mixed-use development is an important form of development that can create new housing and shopping service opportunities that can assist the City to address re-urbanization objectives. This proposal is generally in keeping with the Built Form policies set out in the Official Plan with respect to accommodating servicing, parking areas/vehicular access and relationship to the street and surrounding neighbourhood.

City Planning staff's review of this application, has had regard for the Bloor-Yorkville/North Midtown Urban Design Guidelines with respect to the massing of this proposed building, and by encouraging acceptable setbacks and stepping down of heights to provide transition to the lower scale neighbourhood to the north.

The proposed development has referenced the scale of buildings in the area through careful articulation of the first 8 storeys of development and carefully stepping the building back from the stable residential buildings to the north to mitigate impacts of privacy and overlook. The proposal is of a contemporary style and clearly differentiates between existing and new, respecting the evolving architectural context of the area through the use of appropriate contemporary building materials and architectural details.

The Zoning By-law currently permits building heights of 14 metres on this site. The site is part of a *Mixed Use Areas* and abuts a *Neighbourhoods* area to the north and an *Apartment Neighbourhoods* area to the west. As such, the transitions in height to the neighbourhood located to the north, is an important consideration. The proposed building has been massed and terraced in order to be sensitive to the existing residential areas located to the north. The continuous balconies have been broken up on the third to seventh floor with a 2 metre separation and reduced in depth to 1.8 metres with opaque glass treatment for improved privacy for the abutting rear yards of the residents of Chicora Avenue.

The existing context on Pears Avenue, to the west, is an adjacent 8 1/2 storey apartment building, which is located in the *Neighbourhood Apartments* area and is 22.5 metres in height. It has less of a rear setback than what is being proposed by the applicant. The applicant has also relocated the rooftop mechanical unit into the basement of the proposed building, to improve the appearance of the top floor of the building and to attenuate noise impacts.

The proposed building is located on a shallow lot with a significant grade change of 5.35 metres (2 storeys), from the frontage on Pears Avenue to the rear end of the site, which abuts the backyards of Chicora Avenue. Therefore, in terms of perceived height, the building will appear smaller from the residential buildings to the north.

The proposed building is also significantly setback, 7.5 metres from the rear property line of the residential properties to the north and meets a 45 degree angular plane, 10.5 metres or three stories above the rear property line. The rear transition test selected for the site indicates that a building 29.6 metres in height, plus a 5 metre mechanical penthouse would be appropriate at this location. The proposed building is 36.4 metres, which is 1.8 metres, (half a storey), higher. Planning staff believe this to be a minor infringement, considering that the building is significantly set back from Chicora Avenue.

Sun, Shadow, Wind

The Official plan requires the mixed-use developments to be located "so as to adequately limit shadow impacts on adjacent *Neighbourhood Areas*, particularly during the spring and fall equinoxes." The closest *Neighbourhood Area* is located immediately to the north of the subject site.

The Bloor-Yorkville/ North Midtown Urban Design Guidelines in Section 4.3.2 Shadows and Pedestrian Comfort (Figure 25) identifies Pears Avenue and Chicora Avenue as Shadow Sensitive Areas. The design guidelines recommend shadow information be reviewed from 10 am to 4 pm., while additional times may be warranted.

The owner's architect has further revised the 3D shadow analysis based on the revised plans submitted on November 22, 2011. Staff are satisfied with the impact of the further reduced shadowing on the nearby properties. City Planning staff have reviewed the 6 properties from 11 to 23 Chicora Avenue, for the duration of shadows on the rear wall of the houses and the rear yards. The revised proposal shadows on September 21 taken

from 9:18 am at 30 min intervals, range from 0.5 to 1 hour for four houses, which would be in partial shade and with no shadow for two houses. None of the shadows fall on any rear windows. The shadows on March 21 range from 1 to 1.5 hours on portions of the back walls, while three house's back walls have no shadows. Only one rear window of two houses are partially impacted for less than 0.5 hours.

The rear yard shadows for both September 21 and March 21 ranges from 0.5 to 4.5 hours on portions of the rear yards for the 6 properties. All the shadows are off the rear yards at 2.18 pm. The average duration of partial shadow for March 21 is about 3 hours and 15 minutes. The average duration of partial shadow for September 21 is 3 hours. Most of the shadows in September are at the rear half of the rear yards. There are no shade conditions or impacts on any parks or open spaces, which is consistent with the City's practice and guidelines. During March 21 and September 21 there are existing shadows cast on the back walls and portions of rear windows of 5 of the Chicora Avenue houses ranging from 1 to 1.5 hours. These shadows originate from approved and existing buildings located in the Mixed Use Area and Apartment Neighbourhood areas. These areas include Avenue Road, Pears Avenue, and Davenport Road. Also, the Chicora Avenue houses shadow the rear of each other for periods of time. These shadows are much higher on the building's back walls and windows than the shadows from the applicants' proposed building. Staff are satisfied with that shadow impacts of the revised proposal have been appropriately limited.

The Bloor-Yorkville/North Midtown Urban Design Guidelines require buildings that are 20 metres or over (6 storeys) in height to provide a pedestrian level wind study of the proposed development early in the review process.

A Wind Study opinion letter provided by Gradient Microclimate Engineering Inc., was submitted on July 6, 2011 for review by City Planning staff. The opinion letter concludes that based on prominent wind directions, the form of the building, and in-house knowledge of common wind impacts, it is the consultant's opinion that development will experience generally comfortable wind conditions at grade and over the amenity terrace backing onto the Chicora neighbourhood. It goes on to state that the north facing terraces and balconies may be somewhat windier and may require wind barriers to achieve conditions suitable for sitting. It also stated that the Green Roof may be wind sensitive with respect to sustainable growing conditions over the long term.

City Planning staff have requested that a desktop modelling Wind Study be undertaken for the revised proposal. This study needs to be satisfactory to the Chief Planner and Executive Director. The planning concern is with respect to the possibility of any wind impact at the front of the building, on pedestrian comfort and safety, because of the lack of a front building setback. Also, the wind study consultant needs to determine what if any mitigation measures are necessary to prevent wind impact on the Green Roof plant material. These matters are required to be resolved, prior to the introduction of the necessary Bills to Council. A satisfactory full wind study may be required to be submitted by the applicant prior to site plan approval.

Traffic Impact, Laneway Access and Parking

The Bloor-Yorkville/North Midtown Urban Design Guidelines recommend that in *Mixed Use Areas* developments will provide good site access and circulation and an adequate supply of parking for residents and visitors.

Transportation Services has determined that the proposed development does not require a Traffic Impact Study (TIS) to be undertaken.

A public lane is located at the east limit of 124 Pears Avenue. The subject lane is approximately 3.05 metres and extends north from Pears Avenue to Chicora Avenue. In accordance with City Council policy, this lane should ultimately be widened to a minimum width of 6.0 metres. As a result, the applicant is required to convey a 1.48 metre wide strip of land across the entire public lane frontage of this property.

Access to the proposed development at 124 and 128 Pears Avenue will be provided off of Pears Avenue. The proposed access driveway is 6.0 metres wide and approximately one half of the access driveway is located on-site and the remainder is located on the public lane. This arrangement has been deemed acceptable by Transportation Services.

Some residents of Chicora Avenue have raised concerns with respect to the impact on public lane access and traffic infiltration to Chicora Avenue. These matters were not addressed by Transportation Services staff during their review of this application. The applicant is willing to discuss the issue with Transportation Services during the Site Plan Approval process, to determine if there is a need for any directional signage or barrier control, on the public lane.

Transportation Services has determined that a parking supply of 43 spaces comprised of 38 residents and five visitor spaces should be provided. The applicant has agreed to comply and further revised the site plan drawings to provide 54 parking spaces, comprised of 49 spaces for residents and five spaces for visitors.

Functional Servicing

The Executive Director, Technical Services has advised that the Functional Servicing and Stormwater Management Report, dated April 11, 2011, prepared by Cole Engineering is not acceptable to date. Technical Services engineering staff requested revisions to the report. The applicant submitted the revised report in November 2011 for review by Technical Services engineering staff.

City Planning staff has recommended in this report that the owner provide any necessary improvements to the municipal infrastructure in connection with the site servicing review, if it is determined that upgrades are required to the infrastructure to support this development, once the revised Functional Servicing and Stormwater Management Report is determined to be acceptable to the Executive Director of Technical Services.

Solid Waste

The Bloor-Yorkville/North Midtown Urban Design Guidelines recommend that in *Mixed Use Areas* that development will locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences.

Based upon the information provided, Solid Waste Management will provide bulk lift compacted garbage, recycling and organic collection services to this development. Although the applicant has identified their desire to use private collection for this development, they are still required to conform to the requirement for City collection.

Solid waste storage for both commercial and residential garbage is shown to be accommodated in the building with direct access to a Type "G" loading space.

The enclosed Type "G" loading space is well setback from the rear yards of the houses on Chicora Avenue by a 7 metre wide sloped driveway to the underground parking garage. The sloped parking garage driveway is located underneath the proposed rear amenity terrace deck, which further isolates it and the Type "G" loading space from the rear residential neighbourhood.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0 to 0.42 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. The site is in a parkland priority area, as per the City Wide Parkland Dedication By-law 1020-2010.

The applicant proposes 45 residential units and 199.6 m² of non-residential uses on a site with a net area of 1,053.12 m². At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.06 hectares or 56.9 % of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 102.7m².

The applicant purposes to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 102.7m² would not be of a useable size and the site would be encumbered with below grade parking.

The actual amount of the cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

Streetscape

All detailed Pears Avenue landscaping and streetscaping for this application will be dealt with through the Site Plan Approval process.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS.

The site specific zoning by-law will secure performance measures for the following Tier 1 development features: automobile infrastructure, cycling infrastructure, storage and collection of recycling and organic waste.

Other applicable TGS performance measures will be secured through the Site Plan Approval process. The owner is committed to providing a green roof with this project and undertaking special glass treatment for the first 12 metres of the building for the protection of migratory birds. The owner is also committed to providing special glass treatment for the first 12 metres of glass adjacent to any green roof area.

The applicant has indicated they will pursue Tier 2 of the TGS which includes possible refunds against Development Charges payable for the development. Tier 2 performance measures that are being pursued include: a heat recovery system and construction waste management through diversion of construction materials.

Section 37

Section 37 of the Planning Act allows the City to grant increased density and/or height in exchange for community benefits. Community benefits can include (among other capital facilities): parkland, non-profit arts and cultural, community or child care facilities, streetscape improvements on the public boulevard not abutting the site; and other works detailed in policy 5.1.1.6 of the Official Plan.

The community benefits must bear a reasonable relationship to the proposed development, including at a minimum, an appropriate geographic relationship and the addressing of the planning issues associated with the development. (e.g., local shortage of parkland, provision of new parks facilities).

Section 5.1.1.4 of the Official Plan allows Section 37 of the Planning Act to be used for all developments with a gross floor area of more than 10,000 square metres and when the zoning by-law amendment increases the permitted gross floor area by at least 1,500 square metres and/or increases the height significantly.

In this case, the gross floor area of the proposed development is increased by 3,788 square metres over and above the total gross floor area and approximately 22.4 metres over the height permitted by By-law 438-86.

This applicant has agreed to a contribution of \$350,000 (indexed to inflation) to be deposited to the Planning Act Reserve Fund. The funds will be secured in the Section 37 Agreement and may be used for the capital construction of, or the capital improvements to one or more of the following: a minimum of 10% will be for social housing improvements in Ward 20 and the remainder will be for community improvements in Ward 20 in the vicinity of the site, which may include parks and public realm improvements.

The following matter is also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

1. The owner shall, prior to the issuance of the first above grade permit, provide a bronze plaque or submit plans for interpretive panels or other interpretive materials to communicate the history of the property, including the importance of Club Blue Note, jazz club, to be located in the lobby of the residential condominium or an appropriate exterior location, with the proposed location to be illustrated on an Interpretive Plan. The research, design and location of the interpretive materials shall be to the satisfaction of the Manager of Heritage Preservation Services.

Tenure

All residential units will be part of a condominium corporation. A draft plan of condominium will need to be submitted for approval.

Development Charges

It is estimated that the development charges for this project will be \$ 395,592.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

CONTACT

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SIGNATURE

Gregg Lintern, Director, MCIP, RPP
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: South Elevation

Attachment 3: North Elevation

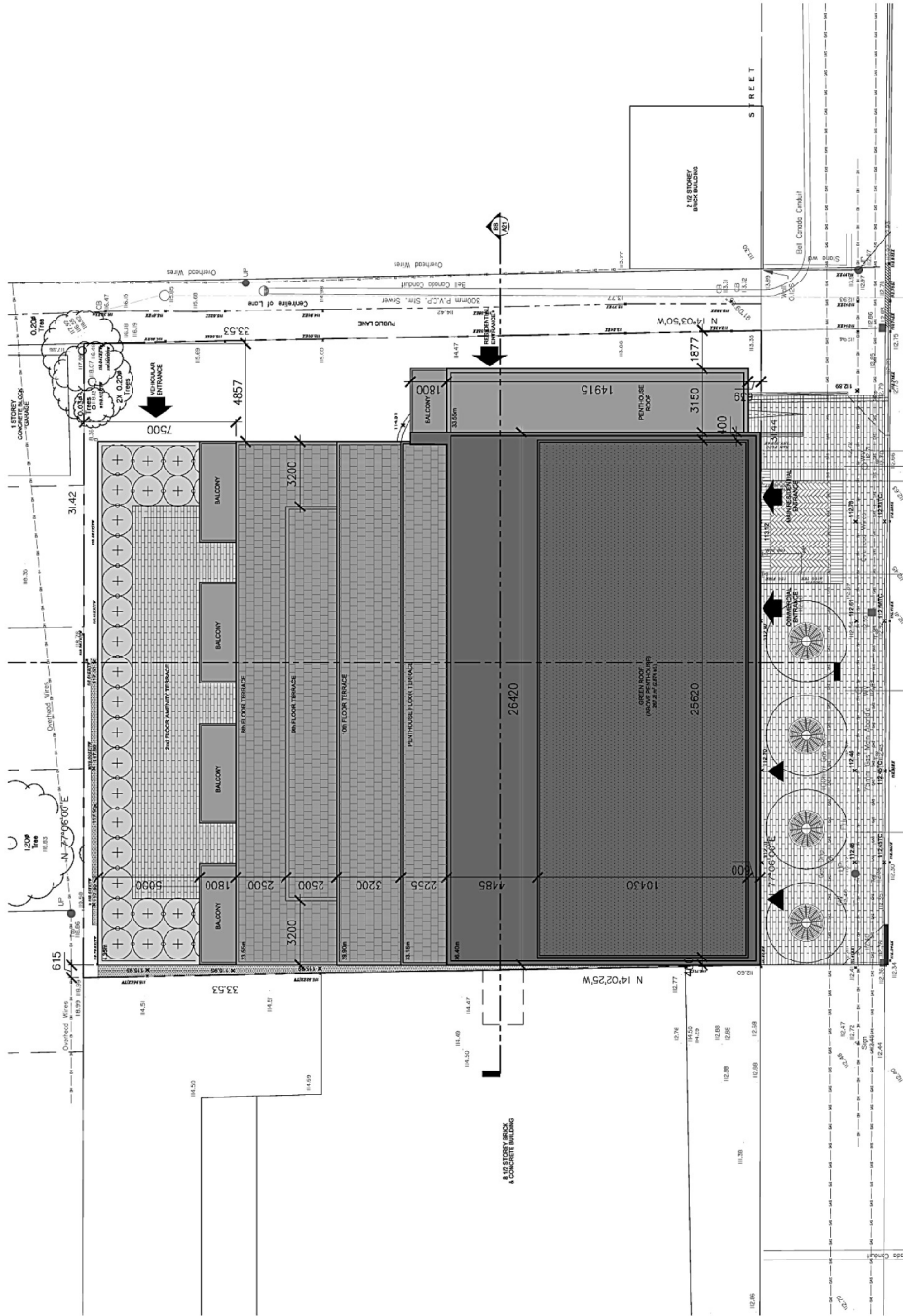
Attachment 4: Building Cross-Section

Attachment 5: Zoning

Attachment 6: Application Data Sheet

Attachment 7: Draft Zoning By-law Amendment

Attachment 1: Site Plan



Site Plan

124-128 Pears Avenue

Applicant's Submitted Drawing

Not to Scale
11/24/2011

File # 11 169962 0Z, 11 169974 SA

Staff report for action – Final Report – 124 Pears Ave



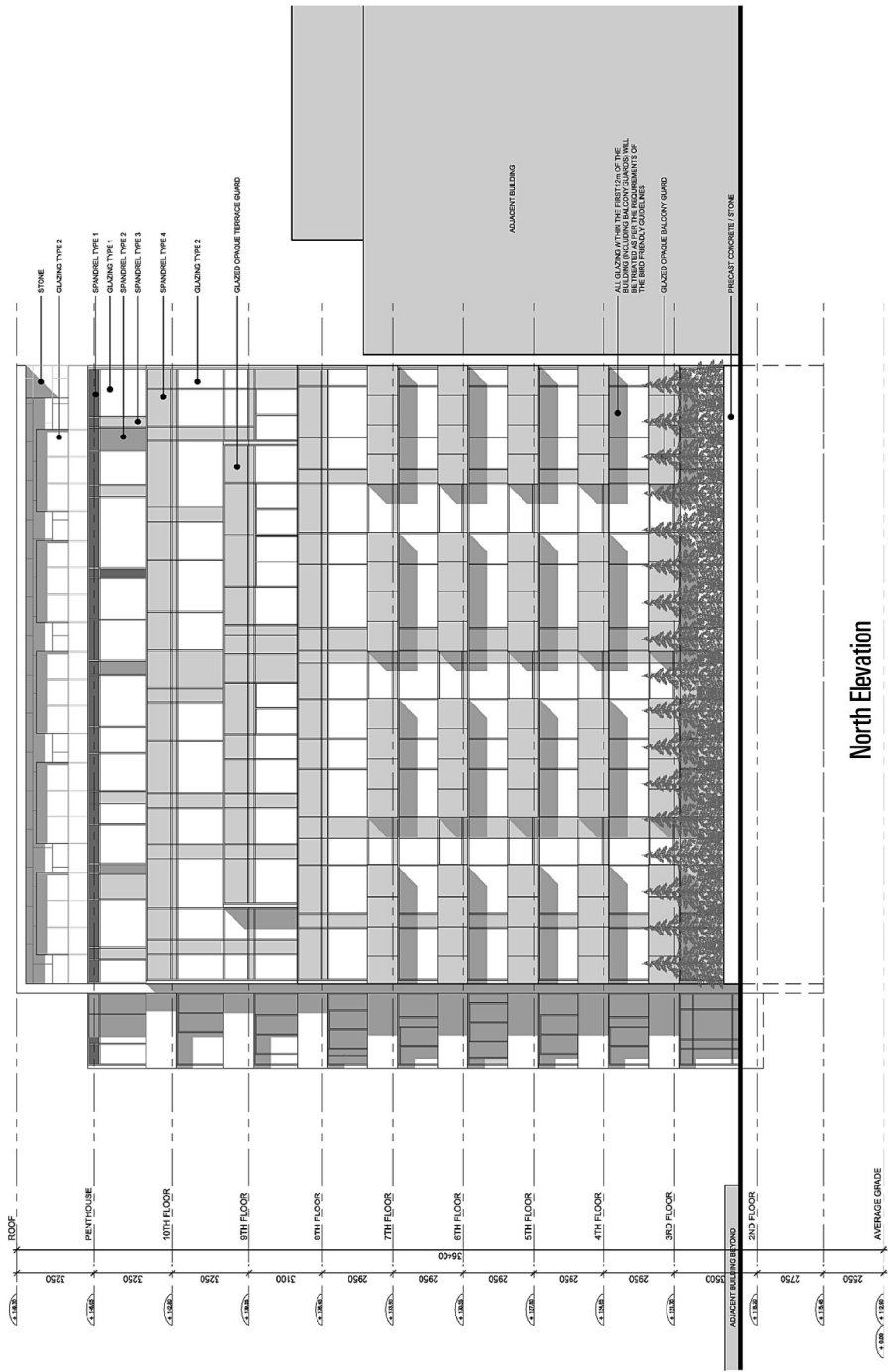
Elevations

Applicant's Submitted Drawing

Not to Scale
11/24/2011

File # 11 169962 OZ, 11 169974 SA

Attachment 3: North Elevation



124-128 Pears Avenue

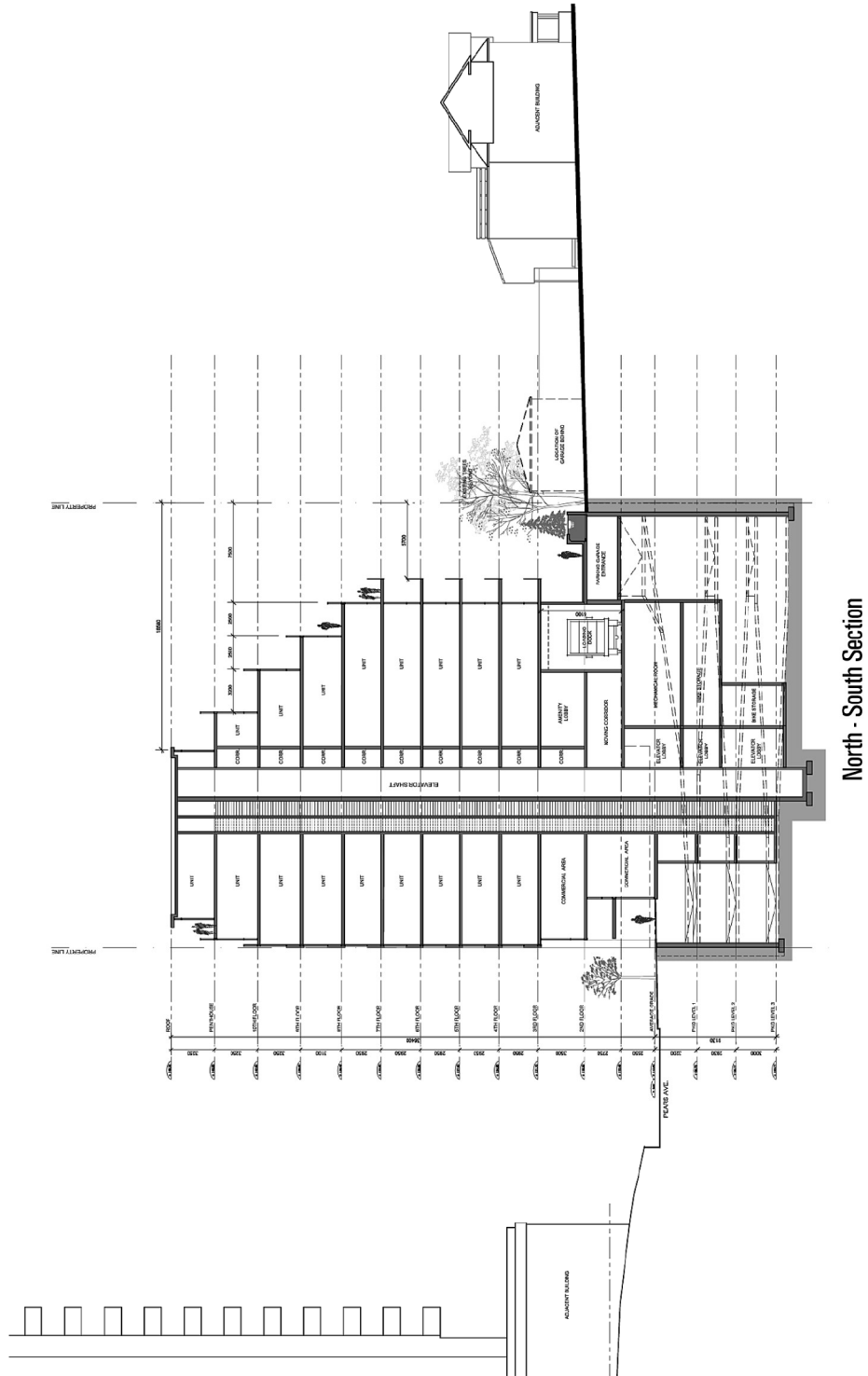
Elevations

Applicant's Submitted Drawing

Not to Scale
11/24/2011

File # 11 169962 OZ, 11 169974 SA

Attachment 4: Building Cross-Section



Cross Section

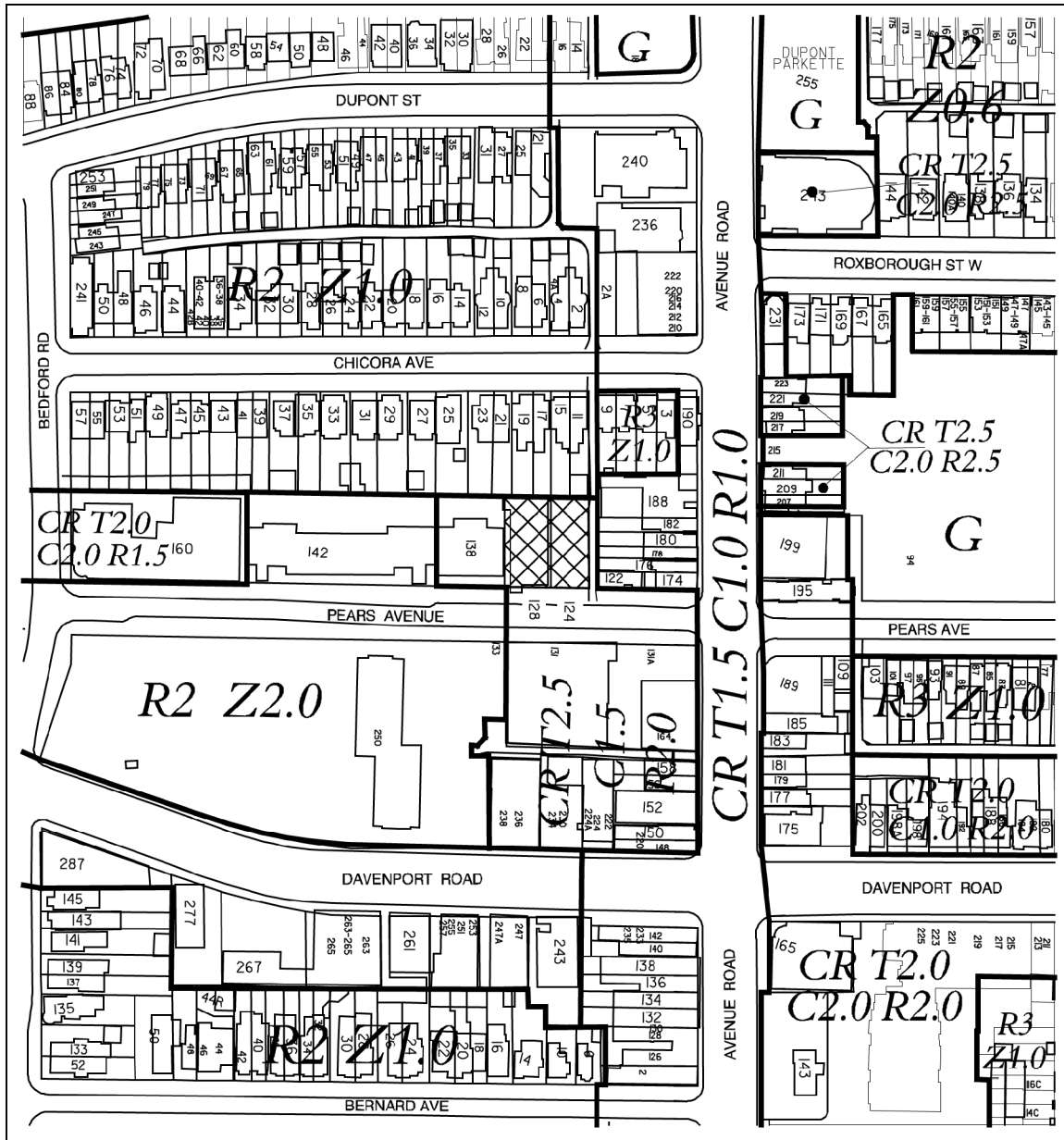
Applicant's Submitted Drawing

Not to Scale
11/24/2011

124-128 Pears Avenue

File # 11 169962 OZ, 11 169974 SA

Attachment 5: Zoning



124 and 128 Pears Avenue
File # 11_169974_SA and 11_169962_OZ

- G Parks District
- R2 Residential District
- R3 Residential District
- CR Mixed-Use District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 05/25/11

Attachment 6: Application Data Sheet

Application Type	Rezoning	Application Number:	11 169962 STE 20 OZ
Details	Rezoning, Standard	Application Date:	April 8, 2011
Municipal Address:	124 and 128 PEARS AVE		
Location Description:	PLAN E120 LOT 31 **GRID S2003		
Project Description:	Rezoning application to permit the lands municipally known as 124-128 Pears Ave to be used for the purposes of a new 11-storey (ten storey plus residential penthouse) mixed-use building containing 254m ² of ground floor commercial area and 45 residential suites above. Included in the proposal are 54 vehicular parking spaces to serve the building.		

Applicant:	Agent:	Architect:	Owner:
SUNNYHILL GARDENS INC			SUNNYHILL GARDENS INC

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR T2.5 C1.5 R2.0	Historical Status:	
Height Limit (m):	14	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1053.12	Height:	Storeys:	11	
Frontage (m):	31.436		Metres:	36.4	
Depth (m):	33.515				
Total Ground Floor Area (sq. m):	374.67				Total
Total Residential GFA (sq. m):	6010.51		Parking Spaces:	54	
Total Non-Residential GFA (sq. m):	253.70		Loading Docks	1	
Total GFA (sq. m):	6264.21				
Lot Coverage Ratio (%):	35.6				
Floor Space Index:	5.95				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo, Freehold		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	6010.51	0
Bachelor:	0	Retail GFA (sq. m):	253.70	0
1 Bedroom:	12	Office GFA (sq. m):	0	0
2 Bedroom:	27	Industrial GFA (sq. m):	0	0
3 + Bedroom:	6	Institutional/Other GFA (sq. m):	0	0
Total Units:	45			

CONTACT:	PLANNER NAME:	Barry Brooks, Senior Planner
	TELEPHONE:	(416) 392-1316

Attachment 7: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of
Toronto Council on ~, 20~
Enacted by Council:~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as, 124 and 128 Pears Avenue

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set in the by-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that, where an owner of lands elects to provide facilities, services or matters in return for an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the “City”); and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law;

WHEREAS Council of the City of Toronto, at its meeting on February 6 and 7, 2012, determined to amend the former City of Toronto Zoning By-law No. 438-86 with respect to lands known municipally in the year 2011 as 124 and 128 Pears Avenue;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
2. None of the provisions of Sections 4(2)(a), 4(5), 4(7), 4(8), 4(13)(d), 4(14), 4(16), 4(17), 8(3) Part I, 8(3) Part II, and 8(3) Part III 1, 8(3) Part IV 1, 12(2) 132, 12(2) 270, and Part XI of Zoning By-law No. 438-86, of the former City of Toronto, as amended, being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto” shall apply to prevent the erection or use of any buildings or structures on the *lot* provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the aggregate of the *residential gross floor area* and the *non-residential gross floor area* erected or used on the *lot* does not exceed 6,450 square metres, of which:
 - (i) the *residential gross floor area* does not exceed 6,170 square metres; and
 - (ii) the *non-residential gross floor area* does not exceed 260 square metres;
 - (c) the maximum number of *dwelling units* erected or used on the *lot* shall not exceed 45;
 - (d) no portion of the building or structure erected or used above *grade* is located otherwise than within the *lot* and wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following which may extend beyond the areas delineated by such heavy lines:
 - (i) cornices, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps, vents, fences, screens, landscape and site servicing features, public art features, railings, awnings and canopies; and
 - (ii) balconies may extend up to 1.8 metres beyond the heavy lines shown on Map 2;

- (e) the *height* of any building or structure, or portion thereof including mechanical penthouse, does not exceed those *height* limits as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
 - (i) railings, parapets, balconies, cornices, window washing equipment, lighting fixtures, ornamental elements, stair towers, elevator shafts, elevator towers, trellises, planters, partitions dividing outdoor recreation areas, guard rails, stairs, stair enclosures, wheelchair ramps, vents, *parking garage*, fences, screens, architectural features, elements of a green roof, lightning rods, and exhaust flues, located above the *height* of each of the roof levels of the building;
 - (ii) the maximum height for chimney stacks and mechanical equipment shall be the sum of ** metres and the applicable height limit shown on Map 2;
 - (f) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - i) 0.3 *parking spaces* per each bachelor *dwelling unit*;
 - ii) 0.5 *parking spaces* per 1-Bedroom *dwelling unit*;
 - iii) 0.75 *parking spaces* per 2-Bedroom *dwelling unit*;
 - iv) 1.2 *parking spaces* per 3-Bedroom *dwelling unit*; and
 - iv) 0.06 *parking spaces* per *dwelling unit* shall be provided for visitors.
 - (g) one *loading space* – type “G” shall be provided and maintained on the *lot*.
3. A temporary *sales presentation centre* shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.
 4. Pursuant to Section 37(1) of the *Planning Act* the *heights* and *density* of the development permitted in the By-law are permitted subject to compliance with all the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* expense and in accordance with and subject to the agreement referred to in Section 4 of this by-law.
 5. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provisions of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter of payment of any monetary contribution as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the owner has satisfied the said requirements.

6. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:

“*grade*” means 112.9 metres Canadian Geodetic Datum;

“*lot*” means at least the lands delineated by heavy lines shown on Map 1;

“*height*” means the vertical distance between *grade* and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;

“*parking space*” means an unimpeded area having minimum dimensions of 5.6 metres in length and 2.6 metres in width which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another vehicle;

“*sales presentation centre*” shall mean an office provided for the marketing or selling of *dwelling units* located or to be located on the *lot*;

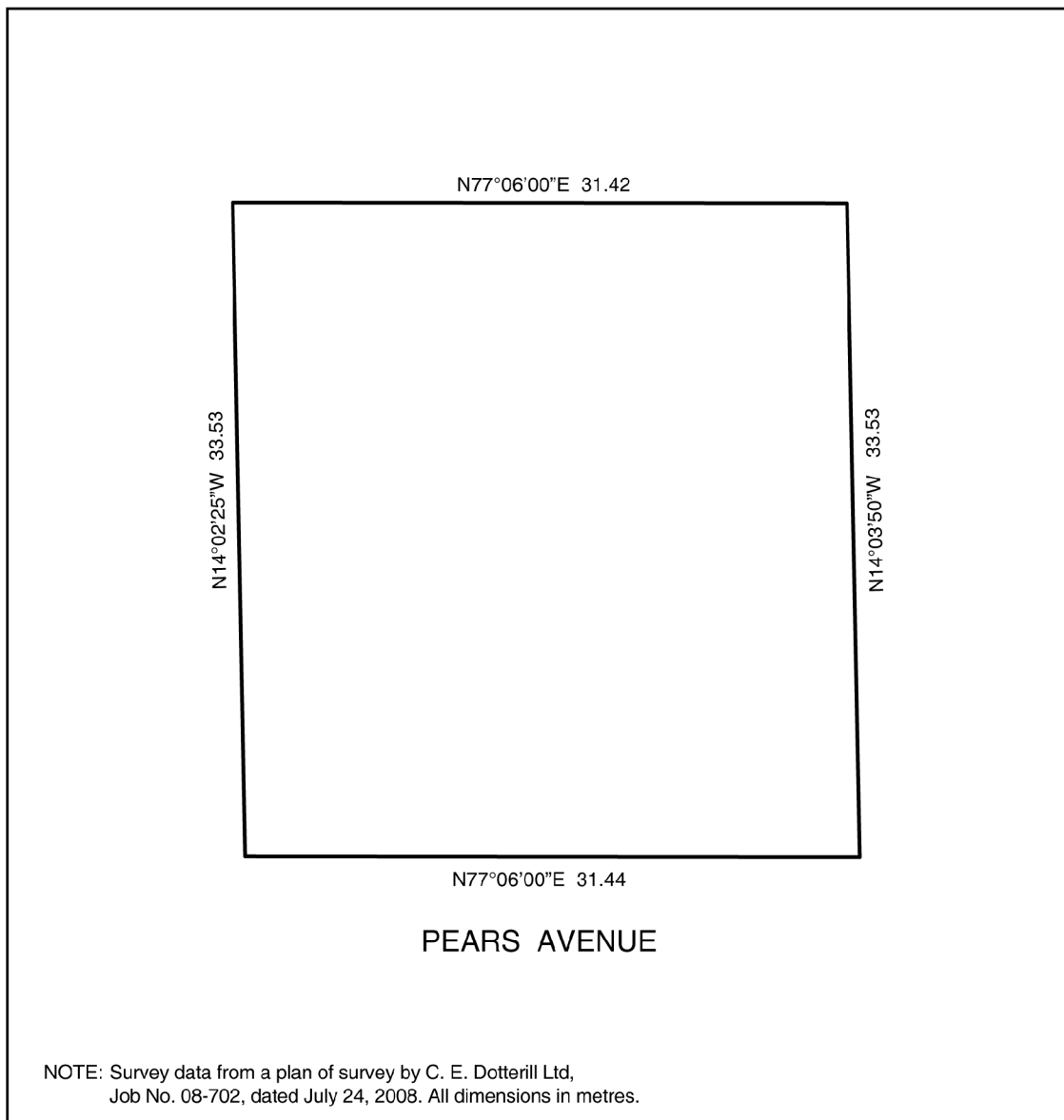
7. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

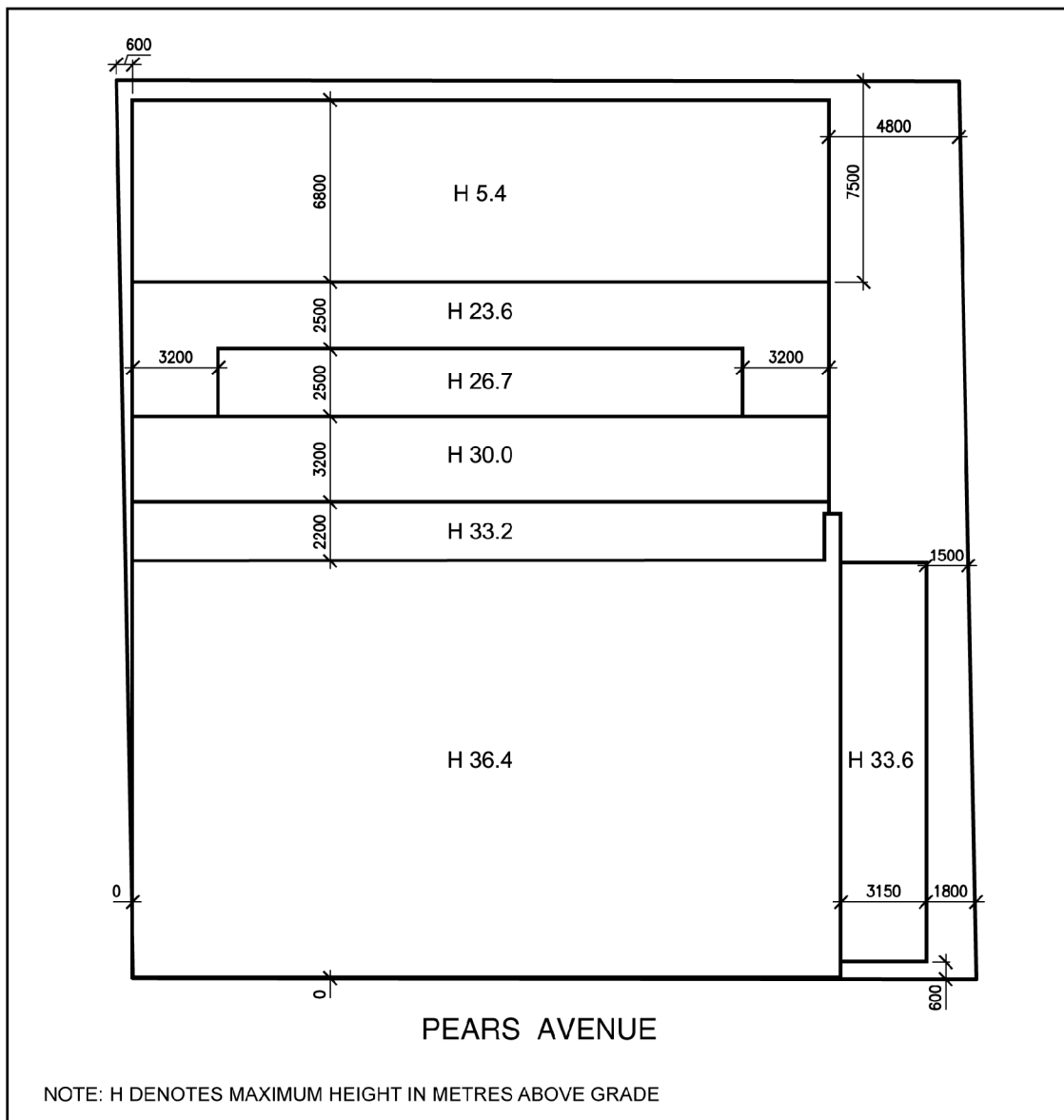
ENACTED AND PASSED this ~ day of ~, A.D. 2012.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)





Appendix "1"

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of that *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City and the owner with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. The *owner* shall pay to the City a payment of \$350,000 prior to the first above grade building permit. Such payment shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date the Section 37 Agreement to the date of payment.

Such payments will be deposited to the Planning Act Reserve Fund and may be used for the capital construction of, or capital improvements to one or more of the following: a minimum of 10% will be for the public housing improvements in Ward 20 and the remainder will be for community improvements in Ward 20 in the vicinity of the site, which may include parks and public realm improvements.

The funds will be allocated amongst the listed community benefits as determined by the Chief planner and Executive Director, City Planning in consultation with the Ward Councillor.

2. The *owner* shall, prior to the issuance of the first above grade permit, provide a bronze plaque or submit plans for interpretive panels or other interpretive materials to communicate the history of the property, including the importance of the Club Blue Note, jazz club to be located in the lobby of the residential condominium or an appropriate exterior location, with the proposed location to be illustrated on an Interpretation Plan. The research, design and location of the interpretive material shall be to the satisfaction of the Manager of Heritage Preservation Services.
3. The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2011 as 124 and 128 Pears Avenue, one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.